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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/392,947	09/09/1999	STEPHEN JOE MYERS	H-204258	2048

7590

08/05/2003

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EXAMINER

TRAN, HIEN THI

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 08/05/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/392,947

Applicant(s)

MYERS, STEPHEN JOE

Examiner

Hien Tran

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1764

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): 112 rej.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the same reasons set forth in the final office action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-12, 14, 23-32.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached sheet.

Hien Tran
Primary Examiner
Art Unit: 1764

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/24/03 have been fully considered but they are not persuasive.

Applicants argue that in Otani '392 there is no first end plate defining the first end of the catalyst converter. Such contention is not persuasive as the flanged sleeve 36 in Otani '392 is considered as an end plate.

Applicants argue that the flanged sheet of Otani '392 has a different design from that of the instant claim because the flanged sleeve of Otani '392 is a wide-open cylindrical ring to which a muffler may be attached. Such contention is not persuasive as the language of the claim does not exclude such wide-open cylindrical ring of Otani '392.

Applicants argue that the flanged sheet of Otani '392 has a different location from that of the instant claim because it does not define a first extreme end of the catalyst converter. Such contention is not persuasive as the flanged sheet 36 of Otani '392 does define a first extreme end of the converter. It is located at the farthest end of the catalyst converter as compared to the catalyst 21.

Applicants argue that the flanged sheet of Otani '392 has a different function from that of the instant claim. That may be so, however, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

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Applicants argue that in Otani '206, the end plate 52 and 54 are internal to the case 32 and not "extreme". Such contention is not persuasive as the language of the claim is not commensurate in scope with such argument, e.g. the instant claim does not require that the end plate is extreme to the case.

Applicants' argument with respect to the compressive forces in Otani '206 is noted. However, the language of the claim does not require nor exclude any.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is 308-4253. The examiner can normally be reached on Tuesday-Friday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.

HT
July 31, 2003

Hien Tran
Hien Tran
Primary Examiner
Art Unit 1764